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***EX PARTE***

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September 10, 2007

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

RE: *In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115

Dear Ms. Dortch:

Recently, Verizon filed an *Ex Parte* with the Federal Communications Commission (“Commission”) regarding foreign access to and storage of customer proprietary network information (“CPNI”).<sup>1</sup> Qwest Services Corporation (“Qwest”) supports that filing in its entirety. Qwest has outlined, for the record, its activities with respect to access to and use of CPNI from foreign locations, as well as its deployed safeguards to secure and protect such information.

Qwest generally opposes federal regulation of CPNI in the context of foreign access, use or storage, whether the CPNI is stored domestically or in a foreign location.<sup>2</sup>

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<sup>1</sup> See Letter from Donna Epps, Verizon to Marlene H. Dortch, FCC, filed herein on August 22, 2007 (“Verizon *Ex Parte*”).

<sup>2</sup> On January 14, 2005, Qwest advised the Commission of its opposition to regulations regarding the access and storage of domestic CPNI outside of the United States. See Letter from Melissa E. Newman, Qwest to Marlene H. Dortch, FCC, filed herein, Jan. 14, 2005. Again, on May 23, 2007, Qwest filed an *ex parte* providing additional arguments and information regarding the regulation of CPNI as it might be accessed, used, or stored overseas. Qwest noted that it agreed with arguments that: (1) Section 222 of the Telecommunications Act of 1996 permits transfers of CPNI abroad and nothing suggests that such use, disclosure or access is or can be confined to the United States; (2) the Federal Bureau of Investigation (“FBI”) already has the ability to access CPNI stored abroad by United States-based carriers; and (3) proposed

Telecommunications companies should not be required to forego the efficiencies, lower prices or associated consumer benefits of managing their information assets as they deem most appropriate, absent some demonstration of systemic or widespread abuse in the area of carriers' treatment of CPNI. Unless and until such a showing has been made, Qwest believes that a sound cost/benefit analysis targeting only telecommunications companies for such a restriction on foreign storage of customer information is contrary to the public interest and should be avoided.

Still Qwest here wants to endorse Verizon's recently-stated position that the Commission should act to refresh the existing record on this matter, if the Commission decides continued consideration of the FBI's request to prohibit the storage of CPNI outside the United States is warranted. As Verizon (and others before it) correctly observe, the telecommunications industry is no longer domestic. Like other industries, it is international in scope and in cost structure. Like other industries, telecommunications carriers seek to reduce costs and promote efficiencies, so that their customers can benefit through lower prices for continued quality goods.

Qwest also shares Verizon's concerns that any Commission regulation in the area of storage of CPNI overseas will be at odds with various international trade agreements, and urges the Commission to secure broader comment on this serious issue. As importantly, even if such regulations were arguably permitted despite those agreements, their promulgation could result in retaliatory actions by other countries. The Commission should seek a more extensive record on the likelihood that such might occur.

Finally, just as Qwest shares Verizon's concern about the promulgation of "foreign storage CPNI rules," in the first instance, it also shares Verizon's concerns regarding minimizing the adverse affect of any such rules were they enacted. For this reason, Qwest supports the "scoping" of any such rules as proposed by Verizon, as well as Verizon's definitions. Such rules:

- ❖ Should be confined to consumers, and exempt business customers.
- ❖ Should exempt from their application temporary storage (including "caching") of CPNI. Access to CPNI from a foreign location into a domestic database will necessarily result in domestic CPNI being "temporarily stored" on services in the foreign jurisdiction. Additionally, "system development, maintenance, or similar support purposes" will also require temporary storage of CPNI, likely for a longer period than "caching." Yet, as Verizon notes, the FBI has indicated its concurrence with such activities.<sup>3</sup> The Commission should carefully draft any rules on the foreign storage of CPNI so that these types of temporary storage remain permissible.

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restrictions would impose significantly higher costs on carriers. *See* Letter from Melissa E. Newman, Qwest to Marlene H. Dortch, FCC, filed herein, May 23, 2007.

<sup>3</sup> *See Verizon Ex Parte* at 5.

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- ❖ Should adopt the definitions proposed by Verizon in its *Ex Parte* (at Exhibit 1). Those definitions are reasonable, commercially-viable, and still achieve the objective of securing CPNI accessed and temporarily stored overseas.

For all the above reasons, Qwest opposes the FCC taking any action to regulate international storage of or access to CPNI. But in the event action is taken, Qwest supports the approach outlined by Verizon.

This submission is made pursuant to Sections 1.49(f) and 1.1206(b) of the rules of the Commission, 47 C.F.R. §§ 1.49(f), 1.1206(b).

If you have any questions, please call me on 202-429-3120.

Respectfully,

/s/ Melissa E. Newman